

**ORDINANCE 10-9
OF THE CITY COUNCIL OF THE CITY OF WEST SACRAMENTO
AMENDING CHAPTER 2.18 OF THE MUNICIPAL CODE
RELATED TO CAMPAIGN CONTRIBUTION LIMITATIONS**

The City Council of the City of West Sacramento does ordain as follows:

Section 1.

The City Council hereby desires to amend the Campaign Contribution Limits Code to assure compliance with current law.

Section 2.

Chapter 2.18 of the Municipal Code is hereby amended to read as follows.

Campaign Contribution Limitations

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2.18.010 Title.

This chapter may be cited as the "Campaign Contribution Limits Code" of the city of West Sacramento. (Ord. 04-11 § 2 (part))

2.18.020 Findings.

The City Council of the City of West Sacramento finds and declares as follows:

A. The policy of this city is to protect the integrity of the electoral process. Local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth.

B. Monetary contributions to political campaigns are a legitimate form of participation in the political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates for municipal office.

C. The increasing amounts of expenditures in political campaigns have forced many candidates for elective office to raise larger and larger sums from individuals or interest groups with a specific financial stake in city matters. This can cause a public perception that the decisions of the mayor and city council members are being improperly influenced by monetary contributions. These perceptions can undermine the credibility of the mayor and city council and the elective and governmental processes.

D. The best interests of the citizens of the city are served by reducing direct and indirect campaign contributions.

E. The city finds that limitations on contributions of money, services and materials by individuals or groups to municipal election campaigns should be imposed by law to protect the public health, safety and welfare. These limitations, however, should be reasonable so as not to discourage personal expression or participation in the political process.

F. Campaign spending for municipal office campaigns is escalating to dangerous and unreasonable levels. The integrity of the legislative process, the competitiveness of campaigns, and public confidence in elected municipal officials are all diminishing because of the perceived effects of large campaign contributions. (Ord. 04-11 § 2 (part))

2.18.030 Purpose and intent.

The City Council of the City enacts this chapter to accomplish the following purposes.

A. To encourage public trust in the electoral and decision-making processes of the city, and to ensure that individuals and interest groups have a fair and equal opportunity to participate in the elective and legislative process;

B. To reduce the potential for influence by large contributors with a specific financial stake in matters before the city, thus countering the perception that decisions of municipal officials are influenced by the size of contributions rather than by the merits of proposals and the best interests of the people of the city;

C. To encourage smaller contributions;

D. To help ensure public trust in the city's legislative and electoral institutions;

E. To limit the use of loans and credit in the financing of political campaigns for city elective office;

F. To provide, in conjunction with the Political Reform Act and the regulations adopted by the California Fair Political Practices Commission implementing the Political Reform Act, a comprehensive system for regulating the conduct of campaigns for city elective office, including but not limited to the provisions of state law which prohibit any controlled committee of a candidate from making independent expenditures and from contributing funds to another committee for the purpose of making independent expenditures (Government Code Section 85501) and which prohibit defined officials from receiving or soliciting campaign contributions of more than two hundred fifty dollars from defined persons during proceedings before the city in which such defined persons are interested and for three months thereafter (Government Code Section 84308). (Ord. 04-11 § 2 (part))

2.18.040 Definitions.

Unless a particular word or phrase is otherwise specifically defined in this chapter, or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974 (Government Code Sections 81000 et seq.) shall govern the constructions, meaning and application of words and phrases used in this chapter. References to particular sections of the Government Code or other statutes or laws, including references in this section, shall be deemed to include any changes to such sections, statutes or laws, including any amendments, deletions, additions, renumberings or recodifications that may occur subsequent to the enactment of the ordinance codified in this chapter.

"California Political Reform Act" means the California Political Reform Act, Government Code Sections 81000 et seq., and implementing regulations promulgated by the Fair Political Practices Commission set forth in Title 2 of the California Administrative Code Sections 18000 et seq., as they may be modified from time-to-time.

"Campaign contribution account" means an account established pursuant to California Government Code Section 85201.

"Candidate" means an individual who has filed a statement pursuant to California Government Code Section 85200 indicating an intent to run for city elective office.

"City" means the city of West Sacramento.

"City elective office" means the office of mayor and the office of city council member.

"Contribution" means contribution as defined in California Government Code Section 82015, and shall include nonmonetary contributions, extensions of credit, and loans (including credit card advances) to the extent that these are considered contributions pursuant to California Government Code Section 84216, subject to the following:

1. Unsecured Loans. Except as otherwise provided in subsection 3, if the loan is not secured or guaranteed, it shall be considered a contribution from the lender and shall be subject to the contribution limits of this chapter.

2. Secured or Guaranteed Loans. Notwithstanding California Government Code Section 84216, a loan which is secured or guaranteed shall be considered a contribution from the lender and guarantor or person whose property secures the loan, and shall be subject to the contribution limits of this chapter, except as otherwise provided in subsection 3.

3. Loans to Candidates from Commercial Lending Institutions. A loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public which is either unsecured, personally guaranteed by the candidate, or secured by property owned by the candidate, shall not be considered a contribution from the lender. Such loans shall, however, be considered a contribution of personal funds from the candidate for the purpose of Section 2.18.050(A).

"Controlled committee" means a controlled committee as defined in California Government Code Section 82016.

"Election cycle" means:

1. For general elections to city elective office, the period from the day after the election until the day of the next election for the same city elective office;

2. For special elections to city elective office, the period from the day on which the seat becomes vacant until the day of the special election;

3. In the case of a recall, the period from the date of the filing of the notice of intention to circulate a recall petition until the date of the election. This election cycle shall also apply to candidates to fill a vacancy in the city elective office that may be created by such recall;

"Independent expenditure" means those expenditures defined in California Government Code Section 82031.

"Independent expenditure committee" means, for purposes of this chapter, persons, as defined in this chapter, whose primary purpose or objective is to make independent expenditures for or against any candidate for city elective office.

"Late contribution" means a late contribution as defined in California Government Code Section 82036, except that for purposes of this chapter, the dollar threshold contained in Section 82036 shall be revised to read one hundred dollars.

"Person" means an individual or any proprietorship, labor union, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, political action committee, committee or any other entity or organization or group of persons, however organized. (Ord. 04-11 § 2 (part))

2.18.050 Contribution limitations.

A. Contribution Limits to City Council Elections.

1. **Limitation on Contribution from Persons to Candidate for City Elective Office.** No person shall make, and no candidate for city elective office or a controlled committee of the candidate or person acting by or on behalf of the candidate or the candidate's controlled committee shall accept, any contribution which would cause the total amount contributed by that person during any election cycle to the candidate, or to the candidate's controlled committee, to exceed two hundred fifty dollars.

2. **Contribution of Personal Funds to a Candidate's Own Campaign.** Nothing in this section is intended to limit the amount a candidate may contribute to his or her campaign for city elective office from his or her personal funds; provided, however, that if a candidate contributes more than two thousand five hundred dollars during an election cycle to his or her campaign from his or her personal funds, then the limitation on contributions that may be made to or accepted by all candidates for the same city elective office, and their controlled committees, shall be increased to five hundred dollars. Loans made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public will be considered a contribution of personal funds for purposes of this section.

A candidate who contributes more than two thousand five hundred dollars during an election cycle to his or her campaign from his or her personal funds shall notify the city clerk in writing within twenty-four hours after making the contribution that causes the total contributed by the candidate to exceed two thousand five hundred dollars, which notification shall be available for review by the public upon receipt by the city clerk. Notification shall be provided by one of the following methods:

- a. Facsimile transmission;
- b. Telegram;
- c. Guaranteed overnight delivery through the United States Postal Service; or
- d. Personal delivery.

3. **Written Solicitations by Candidates.** Any candidate or his or her controlled committee making a written solicitation for a contribution for the candidate's campaign for city elective office shall include the following written notice in no less than eight-point type on each such solicitation:

NOTICE

The West Sacramento Municipal Code limits the amount a contributor may give to a candidate for elective office to an aggregate total of two hundred fifty dollars. This includes contributions to the candidate, to persons or committees controlled by the candidate, and to persons or committees making independent expenditures for or against the candidate.

If the maximum contribution amount for a candidate has been increased to five hundred dollars pursuant to Section 2.18.050(A)(1), the dollar amount in that candidate's written notices may be increased from "\$250" to "\$500".

4. **Exception for Campaign Indebtedness.** A contribution specifically made to, accepted by and expended by a candidate or incumbent for the purpose of eliminating campaign debts incurred by the candidate or incumbent in the course of a previous campaign for city elective office shall be considered a contribution made and accepted during the election cycle in which the debts were incurred.

B. Contribution Limitations to Persons or Committees Making Independent Expenditures.

1. Limitation. No person shall make, and no person or committee making independent expenditures supporting or opposing a candidate for city elective office shall accept, any contribution which would cause the total amount contributed by that person during any election cycle in support of or in opposition to that candidate to exceed two hundred fifty dollars.

2. Written Solicitations by Persons Making Independent Expenditures or by Independent Expenditure Committees. Any individual or independent expenditure committee making a written solicitation for a contribution in support of or in opposition to a candidate for city elective office shall include the following written notice in no less than eight-point type on each such solicitation:

NOTICE

The West Sacramento Municipal Code limits the amount that a contributor may give to persons or committees making independent expenditures in support of or in opposition to a candidate for city elective office to a total of two hundred fifty dollars for each candidate. This includes contributions to the candidate, persons or committees controlled by the candidate.

3. Nothing contained in this subsection is intended as, or shall be interpreted to be, a limitation on the right of a person to make independent expenditures.

C. Late Contributions. Late contributions shall be reported in accordance with California Government Code Section 84203. (Ord. 04-11 § 2 (part))

2.18.070 Making and acceptance of a contribution.

For purposes of this chapter, a contribution shall be considered to have been "made" and "accepted" as follows:

A. Monetary Contributions.

1. Making of Monetary Contributions. For purposes of the contribution limitations of this chapter, a monetary contribution is "made" on the date the contribution is mailed, delivered or otherwise transmitted to the candidate, controlled committee, or person or committee making independent expenditures. The date of the check or other negotiable instrument by which the contribution is made may be presumed by the candidate, committee, or person receiving the contribution to be the date on which the contribution is mailed, delivered or otherwise transmitted, unless it is known to the candidate, committee, or person receiving the contribution to be later than the date the contribution is mailed, delivered or otherwise transmitted, in which case the earlier date shall be considered the date on which the contribution is "made."

2. Acceptance of Monetary Contributions. For purposes of the contribution limits of this chapter, a monetary contribution shall be deemed "accepted" on the date that it is made; provided that a monetary contribution shall not be considered accepted for purposes of this chapter if it is not cashed, negotiated or deposited and, in addition, is returned to the donor within fourteen days of receipt.

B. Nonmonetary Contributions.

1. Making of Nonmonetary Contributions. A nonmonetary contribution is "made" by the contributor on the earlier of the following dates:

a. The date that funds are expended by the contributor for goods or services if the specific expenditure is made at the request of the candidate, controlled committee, or person or committee making independent expenditures;

b. The date that the candidate, controlled committee, or person or committee making independent expenditures, or agent of the candidate, controlled committee, or person or committee making independent expenditures obtains possession or control of the goods or services; or

c. The date that the candidate, controlled committee, or person or committee making independent expenditures otherwise receives the benefit of the expenditure.

2. Acceptance of Nonmonetary Contributions. A nonmonetary contribution is deemed "accepted" on the date that it is "made" by the contributor; provided that a nonmonetary contribution shall be deemed not to have been accepted for purposes of this chapter if it is returned within fourteen days of having been made by returning to the contributor any of the following:

- a. The nonmonetary contribution;
- b. Its monetary equivalent; or
- c. The monetary amount by which the value of the nonmonetary contribution exceeds the contribution limits of this chapter. (Ord. 04-11 § 2 (part))

2.18.080 Aggregation of contributions.

A. All contributions made during an election cycle directly to a candidate or to any of the candidate's controlled committees shall be aggregated for purposes of the two-hundred-fifty dollar individual contribution limitation established in Section 2.18.050(A).

B. The limit established in Section 2.18.050 pertains to the aggregate total of all contributions made during an election cycle for or against a candidate for elective office. This amount includes the total of the contributions to the candidate, to the candidate's controlled committees, and to persons or committees making independent expenditures for or against the candidate.

C. All payments made by a person or organization whose contributions or expenditure activities are financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons, shall be considered to be made by the person financing, maintaining or controlling the contribution or expenditure.

D. Two or more persons shall be treated as one and the same person for purposes of the contribution limitations set forth in Section 2.18.050, and their contributions shall be aggregated and shall not exceed the limitations set forth in Section 2.18.050, in the following situations:

- 1. Related Entities. Two or more entities shall be treated as one person when such entities:
 - a. Share the majority of members of their boards of directors;
 - b. Share two or more corporate officers;
 - c. Are owned or controlled by the same majority shareholder or shareholders; or
 - d. Are in a parent-subsidiary relationship. A parent-subsidiary relationship exists when one corporation directly or indirectly owns shares possessing more than fifty percent of the voting power of another corporation.
- 2. Controlling Interest. A person and any general or limited partnership in which the person is a general partner, or a person and any corporation in which the person owns a controlling interest, shall be treated as one person. For purposes of this subsection, a controlling interest in a corporation means fifty percent or more of the voting power of a corporation.

E. Notwithstanding the provisions of Section 2.18.130, candidates, controlled committees, and persons or committees making independent expenditures shall not be deemed to be in violation of this section if any of them accepts a contribution from a person that was made in violation of the contribution limits of this chapter. It

is the intent of this section to make contributors, and not candidates, controlled committees, or persons or committees making independent expenditures, liable for violations occurring as a result of the applicability of this chapter to contribution limits.

F. A candidate for city elective office may transfer campaign funds from one controlled committee to another controlled committee of the same candidate. Contributions transferred shall be attributed to specific contributors using methods set forth in the Political Reform Act. Transferred funds, when aggregated with all other contributions from the same contributor, may not exceed the limits set forth in Section 2.18.050. (Ord. 04-11 § 2 (part))

2.18.090 Contributions by spouses and children.

A. Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

B. Contributions by dependent children shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent). (Ord. 04-11 § 2 (part))

2.18.100 Contributions by spouse, children or family members of candidate.

Contributions to a candidate by his or her spouse, children or any other family member shall be subject to the contribution limits of this chapter. (Ord. 04-11 § 2 (part))

2.18.110 Effective date of contribution limitations.

A. Notwithstanding the date of adoption and the effective date of the ordinance codified in this chapter, and except as otherwise provided in subsections B and C of this section, the contribution limits of this chapter shall apply to contributions made on or after January 1, 1993, to:

1. Any candidate for city elective office, including an incumbent, who sought or who will seek election in any election for city elective office. Contributions made prior to January 1, 1993, shall not be considered for purposes of the individual contribution limits contained in Sections 2.18.050 and 2.18.080; and

B. Contributions made prior to the effective date of this Ordinance No. 02-5, shall not be considered or aggregated for purposes of the contribution limits contained in Sections 2.18.050(B) and 2.18.080(B).

C. No candidate, controlled committee, or person or committee making independent expenditures shall be deemed to have violated any provisions of this chapter solely because contributions in excess of the limitations contained in Sections 2.18.050 and 2.18.080 were accepted or made before the date specified in subsections A or B of this section. Nothing in this subsection shall be deemed to require the return of any contribution made prior to the effective date of the ordinance codified in this chapter. (Ord. 04-11 § 2 (part))

2.18.120 Application of state laws.

Nothing in this chapter shall be deemed to exempt any person from complying with applicable provisions of any other laws of this state, including but not limited to, the contribution limitations contained within the California Political Reform Act for special elections. (Ord. 04-11 § 2 (part))

2.18.130 Enforcement.

A. Any person who willfully or knowingly violates any provision of this chapter is guilty of a misdemeanor.

B. If the city clerk discovers through a campaign statement that any provision of this chapter has been violated, the city clerk shall promptly notify the District Attorney. (Ord. 04-11 § 2 (part))

2.18.140 Severability.

If any provision of this chapter, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this chapter, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this chapter are severable. (Ord. 04-11 § 2 (part))

Section 3. Effective Date and Notice. This ordinance is adopted as an urgency ordinance and shall take effect immediately upon its adoption and, pursuant to Resolution 99-46, published in summary format prior to adoption and within 15 days after adoption in a paper of general circulation published and circulated within the city of West Sacramento.

Section 4. Findings. The City Council hereby finds that it is appropriate and necessary to adopt this Ordinance to remove sections pertaining to contribution limits on ballot measures which are conflict with a recent U.S. Supreme Court decision and could be unenforceable during the current on-going City election process.

PASSED AND ADOPTED by the City Council of the city of West Sacramento this 5th day of May, 2010 by the following vote:

AYES: Beers, Johannessen, Kristoff, Villegas, Cabaldon
NOES: None
ABSENT: None

(d)(5)

Christopher L. Cabaldon, Mayor

APPROVED AS TO FORM:

(d)(5)

Robert E. Murphy, City Attorney

ATTEST:

(d)(5)

Kryss Rankin, City Clerk

Codify X

I, Kryss Rankin, City Clerk of the City of West Sacramento, do hereby certify that the foregoing ordinance was introduced at a meeting of the City Council held on April 14, 2010 and was adopted at a meeting held on May 5, 2010, by the vote noted below. This ordinance has been published in accordance with the Government Code requirement.

AYES: Beers, Johannessen, Kristoff, Villegas, Cabaldon.
NOES: None
ABSENT: None.
ABSTAIN: None.

(d)(5)

Kryss Rankin, City Clerk